



STATE OF IOWA
MASTER AGREEMENT

MA# 005 CT2861 XX 2

EFFECTIVE BEGIN DATE: 05-22-2003
EXPIRATION DATE: 05-29-2009
PAGE: 1 of 4

BUYER : ASHLEY SUPER
ashley.super@iowa.gov
515--28-1-70

FOB

PAYMENT TERMS (%): DAYS:

VENDOR:

Expense Reduction Corp
PO Box 521

Winterset, IA 50273
USA

VENDOR CONTACT:

MARK HAYS

PHONE: 515-462-4665

EMAIL:

VENDOR #: 42152824500

EXT:

DESCRIPTION OF ITEMS CONTRACTED

COST MANAGEMENT SERVICES

SEE ATTACHED FILES

This Short Form Contract For Payment Purposes Through Ifas Only. The Complete Contract And Bid Documents Are Available To View At The Purchasing Section Of The Department Of General Services. The State And The Contractor Will Execute Addendum(S) To This Agreement Once The State And The Contractor Have Decided That It Is Appropriate To Implement A Particular Project And That The Contractor'S Assistance In Implementing The Project Is Desired. Contractor Requires No Direct Cash Funding. Fees Are A 100% Straight Contingency For Every Service Based On Documented Savings Generated By The Service, Or Another Method If The Specific Initiative Is Not Savings-Oriented (E.G. Organizational Assessment Or Classroom Training). Contractor Shares In The Savings But Is Paid Only When Savings Are Realized --- And Only For The First Year Of Savings. The Contingency Fee Is 30% Of The First Year Savings. The Final Fee Always Be Subject To The Final Calculation And Approval By The State Payment Terms Are Net 30 Days From Date Of Invoice. Contractor Shall Deliver Invoices Only After Savings Are Realized By The State, Or In Case Of A Non-Cost Savings Initiative, Only After Deliverables Have Been Provided And Services Rendered. Payments Will Be Made By Either State Warrant Or Through Electronic Funds Transfer (Eft).

RENEWAL PERIODS

THRESHOLDS

MINIMUM ORDER AMOUNT:

MAXIMUM ORDER AMOUNT:

NOT TO EXCEED AMOUNT:

AUTHORIZED DEPARTMENT

005 Administrative Services, Dept

ALL

SUB Political Sub-divisions

TOTAL \$0.00

VENDOR:

APPROVED BY:

THIS MA IS SUBJECT TO THE TERMS AND
CONDITIONS ATTACHED HERETO.
PLEASE SEE ATTACHMENTS FOR
FURTHER DESCRIPTIONS.



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LINE NO.	QUANTITY / SERVICE DATES	UNIT	COMMODITY / DESCRIPTION	UNIT COST / PRICE OF SERVICE
1	0.00000		958	\$0.000000
			MANAGEMENT SERVICES	\$0.000000



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TERMS AND CONDITIONS

Remedies upon Default

In any case where the vendor has failed to deliver or has delivered non-conforming goods and/or services, the State shall provide a cure notice. The notice to cure shall state the maximum length of time the vendor has to cure. If after the time period stated in the notice to cure has passed, the vendor continues to be in default, the State may procure goods and/or services in substitution from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The State's Attorney General shall be requested to make collection from the defaulting vendor.

Force Majeure

Force majeure includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party affected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. These provisions of force majeure also apply to subcontractors or suppliers of the Vendor. Force majeure does not include financial difficulties of the Vendor or any associated company of the Vendor, or claims or court orders that restrict the Vendor's ability to deliver the goods or services contemplated by this Agreement. Neither the Vendor nor the State shall be liable to the other for any delay or failure of performance of this Agreement caused by a force majeure, and not as a result of the fault or negligence of a party.

Subcontractors

The successful vendor shall be responsible for all acts and performance of any subcontractor or secondary supplier that the successful vendor may engage for the completion of any contract with the State. A delay that results from a subcontractor's conduct, negligence or failure to perform shall not exempt the vendor from default remedies. The successful vendor shall be responsible for payment to all subcontractors and all other third parties.

Termination-Non-Appropriation

Notwithstanding any other provision of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the State to appropriate funds, discontinuance or material alteration of the program for which funds were provided, then the State shall have the right to terminate this contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding, discontinuance or program alteration.

Immunity of State/Fed Agencies

The vendor shall defend and hold harmless the State and Federal funding source for the State of Iowa from liability arising from the vendor's performance of this contract and the vendor's activities with subcontracted and all other third parties.

Assignment

Vendors may not assign contracts or purchase orders to any party (including financial institutions) without written permission of the General Services Enterprise - Purchasing.

Anti-Trust Assignment

For good cause and as consideration for executing this purchase order, the vendor, through its duly authorized agent, conveys, sells, assigns, and transfers to the State of Iowa all rights, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Iowa, relating to the particular goods or services purchased or acquired by the State of Iowa pursuant to the using State of Iowa agency.

Delivery and Acceptance

When an award has been made to a vendor and the purchase order issued, deliveries are to be made in the following manner.

- A. Deliveries - All deliveries are to be made only to the point specified on the purchase order. If delivery is made to any other point, it shall be the responsibility of the vendor to promptly reship to the correct location. Failure to deliver procured goods on time may result in cancellation of an order or termination of a contract at the option of the State.
- B. Delivery Charges - All delivery charges should be to the account of the vendor whenever possible. If not, all delivery charges should be prepaid by vendor and added to the invoice.
- C. Notice of Rejection - The nature of any rejections of a shipment, based on apparent deficiencies disclosed by ordinary methods of inspection, will be given by the receiving agency to the vendor and carrier within a reasonable time after delivery of the item, with a copy of this notice to the General Services Enterprise - Purchasing. Notice of latent deficiencies which would make items unsatisfactory for the purpose intended may be given by the State of Iowa at any time after acceptance.

Delivery and Acceptance (cont)

- D. Disposition of Rejected item - The vendor must remove at the vendor's expense any item rejected by the State. If the vendor fails to remove that rejected item, the State may dispose of the item by offering the same for sale, deduct any accrued expense and remit the balance to the vendor.
- E. Testing After Delivery - Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test is being made and that payment will be withheld until completion of the testing process.

Title to Goods

The vendor warrants that the goods purchased hereunder are free from all liens, claims or encumbrances.

Indemnification

To the extent that goods are not manufactured in accordance with the State's design, the vendor shall defend, indemnify and hold harmless the State of Iowa, the State's assignees, and other users of the goods from and against any claim of infringement of any Letter Patent, Trade Names, Trademark, Copyright or Trade Secrets by reason of sale or use of any articles purchased hereunder. The State shall promptly notify the vendor of any such claim.

Nondiscrimination

The vendor is subject to and must comply with all federal and state requirements concerning fair employment and will not discriminate between or among them by reason of race, color, religion, sex, national origin or physical handicap.

Warranty

The vendor expressly warrants that all goods supplied shall be merchantable in accordance with the Uniform Commercial Code, Section 2-314 and the Iowa Code, Section 554.2314.

Taxes

The State of Iowa is exempt from the payment of Iowa sales tax, motor vehicle fuel tax and any other Iowa tax that may be applied to a specified commodity and/or service. Contractors performing construction activities are required to pay state sales tax on the cost of materials. The Iowa Department of Revenue exemption letter will be furnished to a vendor upon request.

Hazardous Material



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All packaging, transportation, and handling of hazardous materials shall be in accordance with applicable federal and state regulations including, but not limited to, the Material Safety Data Sheet provision of O.S.H.A. Hazard Communication Standard 29CFR 1910.1200, and Iowa Administrative Code, Chapter 567.

Public Records

The laws of the State of Iowa require procurement records to be made public unless exempted by the Code of Iowa.

Miscellaneous

The terms and provisions of this contract shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this contract shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa. If however, jurisdiction is not proper in Polk County District Court, the action shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, providing that jurisdiction is proper in that forum. This provision shall not be construed as waiving any immunity to suit or liability, which may be available to the State of Iowa.

If any provision of this contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable.

Records Retention

The vendor shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the State of Iowa throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. The vendor shall at, no charge, permit the Auditor of the State of Iowa, or any authorized representative of the State (or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government) to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the vendor relating to orders, invoices, or payments documentation or materials pertaining to this Agreement.

Independent Contractor

The vendor is an independent contractor performing services for the State of Iowa, and as such shall not hold itself out as an employee or agent of the State.

Performance Monitoring

For all service contracts, the requirements of Iowa Code sections 8.47 shall be incorporated into final terms and conditions of the contract.

N30

NET 30 DAYS



**Contract No. CT2861
Cost Management Services**

Between

**The State of Iowa
Department of General Services
or its successor agency
Hoover State Office Building, Level A
Des Moines, IA 50319 ("State")**

And

**Expense Reduction Corporation
PO Box 521
Winterset, Iowa 50273 ("Contractor")**

On behalf of all State Agencies and Political Subdivisions

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1.0 Introduction

This Master Agreement (“Agreement”) with the Contractor outlines how the relationship between the State and the Contractor will be governed. The contract will address common goals, how the State and the Contractor will work together, and how the State and the Contractor will share risks and rewards associated with the services and projects provided by Contractor. This Agreement will provide that the State and the Contractor will execute Addendum(s) to this Agreement once the State and the Contractor have decided that it is appropriate to implement a particular project and that the Contractor’s assistance in implementing the project is desired. This Agreement is made available to all political subdivisions within Iowa.

2.0 Duration

The duration of this Agreement will be one year upon execution. The State shall have the sole option to renew the Agreement upon the same terms and conditions for two (2) additional one-year renewal terms.

3.0 Scope of Services

This Agreement covers the following scope of services as described in RFP BD80300S246:

- A. Contract Negotiation / Re-negotiation Services:
 - 1. Contractor shall work with State to identify and select contractual opportunities (“Projects”) that will reduce the cost of goods and services.
 - 2. Contractor shall work with the State to determine the most appropriate and effective negotiation methodology.
 - 3. Contractor shall perform contract negotiation/re-negotiation services of selected Project(s) that will reduce State’s expenditures without causing an unfavorable modification of services, capabilities, options, functionality, and or other benefits that existed prior to the Contractor’s negotiation or renegotiation, unless approved in advance by the State. All negotiations or renegotiations must be pre-approved in writing by the State prior to finalization.
 - 4. Compensation to Contractor shall only be made after the State realizes the savings or expected benefit.
 - 5. If requested, Contractor must:
 - a. Propose and document: contract negotiation guidelines and procurement strategies
 - b. Identify procurement opportunities
 - c. Establish procurement and negotiation best practices, consistent with Iowa Code and Administrative Rules.
 - d. Recommend a contract monitoring and management solution.
 - e. Provide contract negotiation mentoring services
 - 6. Contractor is encouraged to identify those areas of Iowa Code and Administrative Rules that inhibit procurement strategies, best practices and best value acquisitions and make recommendations for Code or Rule changes.
- B. If requested, Contractor must assist State with procurement processes (i.e. reverse auctions, etc.) and procurement related services including, but not limited to, researching available goods and services, researching available sources of goods and services, providing procurement consulting and training, and developing bid specifications and proposal evaluations. Contractor is prohibited from bidding on specific projects when assistance of this nature was provided.
- C. Contractor must provide guidance to State on ways to better negotiate and manage contracts.

- D. Contractor must provide status reports, as appropriate, to the State regarding the Contractor's work under the general description of the Scope of Services in this Agreement and each Addendum. These reports shall summarize the status of each Project and include detailed explanations of the issues, risks and opportunities associated with the Project and an action plan for the next reporting period. These reports shall also include accomplishments related to agreed-upon milestones, measures, tasks planned, deadlines/timing, and budget matters.

3.1 – Scope of Services; Project-Specific Addendum

Once the State and the Contractor have identified a particular Project or any other procurement-related initiative, the Customer and Contractor will execute an Addendum to this Agreement for that particular Project or initiative. All work under this Agreement that is provided by Contractor to the State shall be covered under an Addendum to this Agreement. Each Addendum will include, at a minimum, the following components and/or clauses:

- A. Milestones, performance measures, and/or minimum outputs/deliverables for the Contractor to meet on the project described in the particular Addendum.
- B. Payment / compensation provisions for each project that is based upon the Contractor's performance.
- C. Project management provisions that describe methods for monitoring the Contractor's performance. The project management provisions will identify project managers for the State and for the Contractor.
- D. A requirement that the Contractor provide Project Status Reports at agreed-upon intervals.

3.2 Additional Services Offered as Proposed:

The following services may be at additional cost:

- A. Purchasing Department organizational assessment

Review negotiation processes, the skill sets of staff, the organizational buy-in, intradepartmental workflow processes, methodologies, and organizational structure. Identify where best practices are being used, and where improvement can be made. Offer concrete, actionable recommendations for improvement that will increase the value of a purchasing organization. This includes recommending tools such as contract management solutions, negotiation / contract workflow solutions, and online auction / RFx tools.

- B. Classroom Training - Design and deliver custom courses to meet needs of client.

- C. Live Negotiation Training / Mentoring Services

Given during a real negotiation. Allow client to sit in on real negotiations and even designate a person(s) to be intimately involved in the negotiations, from the requirements definition to the strategy development to the execution of the strategy.

- D. Individual Skill Assessments and Hiring Assistance

Work one-on-one with individuals in your purchasing department to assess their skill levels in contract negotiation, contract law and drafting, and overall organizational effectiveness.

- E. Purchasing Automation Consulting

Resolve the real issues that surround implementation of Supply Chain Management and e-Procurement solutions such as:

- Organizational buy-in
- Cost-benefit analysis
- Development of Category Spend Reports
- System interfaces
- Requirements definition

- Ensuring that tangible benefits will be achieved

4.0. Key Personnel.

The State awarded this contract in large part based on the personal skills of key individuals identified in the selected Contractor's proposal:

- Mark Allen Hays
- Randy Joseph Roth
- Patrick Allen Bohnenkamp
- Brad Allen Simpson
- Kenneth Eugene Chasten

Any change in the above list of Contractor's personnel used in performing this Agreement must be pre-approved by the State.

5.0. Compensation.

Contractor requires no direct cash funding. Fees are a 100% straight contingency for every service based on documented savings generated by the service, or another method if the specific initiative is not cost savings-oriented (e.g. organizational assessment or classroom training). Contractor shares in the savings but is paid only when savings are realized --- and only for the first year of savings. The contingency fee is 30% of the first year savings. The final fees should always be subject to the final calculation and approval by the State. Payment terms are Net 30 days from date of invoice. Contractor shall deliver invoices only after savings are realized by the State, or in the case of a non-cost savings initiative --- only after deliverables have been provided and services rendered. Payments will be made by either state warrant or through Electronic Funds Transfer (EFT).

The following activities are to be provided to the State at no charge:

- a. Initial research to identify the extent of any opportunity.
- b. Make a proposal, which outlines idea(s), strategy for achieving savings, and an estimate of savings.
- c. Knowledge transfer and implementation assistance if necessary, of Projects approved by the State and under an Addendum.

6.0 Default and Termination

- A. The State may declare the Contractor in default of its obligations under this Agreement for any of the following reasons:
 1. Failure by the Contractor to materially conform to the specifications required by the RFP.
 2. A breach of any term of this Agreement.
 3. Failure to meet any deadline(s) established herein.
 4. Non-performance of this Agreement.
- B. The State shall issue a written notice of default providing therein for fifteen (15) day period in which the Contractor shall have an opportunity to cure, provided that cure is possible and feasible. Time allowed for cure of a default shall not diminish or eliminate the Contractor's liability for liquidated damages.
- C. If, after opportunity to cure, the default remains, the State may do one (1) or more of the following:
 1. Exercise any remedy provided by law;
 2. Terminate the contract and
 3. Obtain liquidated damages from the Contractor, as described herein.

D. Contractor's Obligations

1. A breach of this Agreement, which is the result of a subcontractor's conduct, negligence or failure to perform, shall not excuse the Contractor from the provisions of this Agreement.
2. Should the State obtain a money judgment against the Contractor as a result of a breach of this Agreement, the Contractor consents to such judgment being set-off against moneys owed the Contractor by the State under this Agreement or any other contract between the Contractor and the State.
3. Amounts due to the State as liquidated damages or any other damages may be deducted by the State without a judgment or any court action from any money payable to the Contractor pursuant to this Agreement or any other contract between the Contractor and the State. The State shall notify the Contractor in writing of any claim for liquidated damages or any damages or any other damages on or before the date the State deducts such sums from money payable to the Contractor.

E. Default; Remedies of Contractor

Should the Contractor consider the State to be in default of its obligations, the Contractor shall issue a written notice of default providing therein for a fifteen (15) day period in which the State shall have an opportunity to cure, provided that cure is possible and feasible. If, after opportunity to cure, the default remains, the Vendor may exercise any remedy provided by law.

F. Termination Due to Non-Appropriation

Notwithstanding any other provision of this Agreement, if funds anticipated for the continued fulfillment of the Agreement are, at any time, not forthcoming or are insufficient, either through the failure of the State to appropriate funds or funding from a federal funding source is reduced or discontinued for any reason, or through discontinuance or material alteration of the program for which funds were provided, the State shall give the Contractor written notice as soon as practical documenting the lack of funding, discontinuance or program alteration. Unless otherwise agreed to by the parties, the Agreement shall terminate on the last day of the fiscal year for which appropriations were available. However, in the event that an appropriation to cover the cost of this Agreement becomes available within sixty (60) days subsequent to termination under this section, the State agrees to re-enter this Agreement with Contractor under the same provisions, terms and conditions.

G. Termination for Convenience

The State may terminate this Agreement for convenience for any reason upon thirty (30) days written notice to the Contractor of the State's intent to terminate, and the Contractor's sole remedy in the event of termination for convenience is payment for satisfactory services rendered prior to the date of termination for convenience, subject to liquidated damages and offsets as specified in this Agreement.

H. Remedies of Contractor in Event of Termination

In the event of termination of this Agreement due to non-appropriation or for convenience, the Contractor's sole and exclusive remedy is to recover and possess its own equipment used in the performance of the Agreement. In the event of termination of this Agreement for any reason, the State shall not be liable for the payment of Unemployment Compensation to the Contractor's employees, nor shall the State be liable to the Contractor for payment of Workers' Compensation claims which occur during the Agreement or extend beyond the date on which this Agreement terminates or for any other costs incurred by the Contractor in its performance of the Agreement, except amounts, if any, due and owing to the Contractor by the State on the date of termination.

I. Contractor Duties

1. All records of the Contractor relating to this Agreement shall be retained for five (5) years following the date of final payment under this Agreement. Nothing in this Agreement shall be construed to permit or authorize the Contractor to destroy or eliminate documents, records, or files in violation of any statute or rule governing the Contractor's retention of records.
2. The Contractor agrees that the Auditor of the State of Iowa or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States or any other representatives of the United States Government, shall have access to and the right to examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, and records of the Contractor relating to all debt collection activities or the Contractor's performance under this Agreement. The Contractor shall not impose any charges for access to its books and records regarding its performance under this Agreement, and shall fully cooperate with authorized representatives in the examination or audit of books and records. The State shall not impose a charge for audit or examination of the Contractor's books and records.
3. The Contractor shall comply with the applicable provisions of federal, state and local laws and regulations to insure that no employee or applicant for employment is discriminated against because of race, religion, color, age, sex, national origin, or disability. The Contractor shall have an affirmative action plan, if required by law.
4. The Contractor warrants that no person or selling agency has been employed or retained to solicit and secure this Agreement upon an agreement or understanding for commission, percentage, brokerage or contingency with the exception of bona fide employees or selling agents retained for the purpose of securing business. In the event of breach of this subsection, which shall be considered a material term of this Agreement, the State shall have, in addition to the remedies contained herein, a right to liquidated damages in the sum of \$1000.00. Such damages are not a penalty and would be assessed only because the monetary damage to the State's competitive bidding process resulting from breach of this subsection is difficult, if not impossible, to measure.
5. In the event that the Contractor utilizes subcontractors for the purpose of fulfilling its obligations under this Agreement, all such subcontractors shall be procured with appropriate attention to the principles of competition and quality of workmanship; however, the Contractor shall not be required to adhere to the State's competitive bidding procedures in its selection of subcontractors. All records relating to subcontracts shall be retained as required in subsection A. above and available for audit or examination as required in subsection B. above. The Contractor shall be responsible for the performance of any subcontracts retained by Contractor in performance of this Agreement.
6. If the Contractor is a joint entity, consisting of more than one (1) individual, partnership, corporation or other business organization, all such entities shall be jointly and severally responsible for fulfilling the activities and obligations of this Agreement and for any default under this Agreement.
7. The Contractor shall provide and pay for all labor, materials, equipment, tools, machinery, storage of it and transportation necessary for the Contractor to provide the services required under this Agreement except as otherwise provided in this Agreement.
8. Some data, policies and activities of the State are confidential. The Contractor shall preserve the confidentiality of such data, policies and activities that are revealed to Contractor in the performance of this Agreement. Contractor shall maintain procedures for safeguarding the identified confidential information. In the event of a breach of this provision, the State may terminate this Agreement immediately without notice of default and opportunity to cure.

9. The Contractor irrevocably consents to service of process by certified or registered mail addressed to the Contractor's designated agent. The Contractor appoints as its agents to receive services of process:

Name: Turner Law Offices

Address: 1915 Grand Avenue, Des Moines, Iowa 50309

Phone Number: (515) 245-9509

Facsimile Transmission No: (515) 244-0124

If for any reason the Contractor's agent for service is unable to act as such or the address of the agent changes, the Contractor shall immediately appoint of new agent and provide the State with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the State. Nothing in these provisions will alter the right of the State to serve process in any other manner permitted by law.

J. Indemnification; Consequential and Indirect Damages

To the extent that that any damages are caused in whole or in part by an intentional or negligent act or omission by the Contractor, any subcontractor, agent, representative or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the Contractor shall indemnify and hold harmless the State, its officials, agents and employees, from and against any and all claims, damages, losses, settlements, judgments, costs and expenses, including attorney's fees (collectively damages), arising out of or resulting from the Contractor's performance or attempted performance of its obligations under this Agreement; claims for infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from the design of the project; and, any violation of the Agreement.

The Contractor shall indemnify and hold harmless the State, its officials, agents and employees, from and against any and all claims by an employee of the Contractor, its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. The indemnification under this subsection shall not be limited in any way by any limited on the amount or type of damages, compensation or benefits payment by or for the Contractor or a subcontractor under Workers Compensation Actions, disability benefit acts or other employee benefit acts.

The State shall not be liable to any party for lost profits, indirect, special, punitive or consequential damages arising under this Agreement or from any breach or partial breach of the provisions of this Agreement or arising out of any act or omission of any party to this Contract, its subcontractor, employees, servants, representatives or agents, or arising under theories of strict liability or tort.

The obligations of the respective parties under this section shall survive the expiration or termination of this Agreement, including any extensions thereto, with respect to any occurrences within the term of this Agreement.

K. Offset - In the event that Contractor is in arrears in payment of any state taxes, which are due and payable to the State, the State may offset any taxes in arrears from payments to the Contractor under this Agreement.

7.0 Property Damage

The Contractor shall exercise its best efforts to prevent damage to property of the State in the course of performing its obligations under this Agreement. The Contractor shall replace or pay replacement costs of any property damaged by its operations. The Contractor shall restore damaged property to its condition prior to the damage at the sole expense of the Contractor. Such restoration shall be complete when judged satisfactory by the State.

A. The Vendor shall maintain in full force and effect during the term of this Agreement, liability and property damage insurance to protect the Contractor, its subcontractors, if any, and the State from

claims for damage that may arise from operations under this Agreement, and the amount of such insurance shall not be less than the following:

<ul style="list-style-type: none"> General Liability (including contractual liability) written on an occurrence basis. 	General Aggregate	\$3 Million
	Product Liability Aggregate	\$1 Million
	Personal Injury	\$1 Million
	Comprehensive Aggregate	\$1 Million
	Each Occurrence	\$1 Million
<ul style="list-style-type: none"> Automobile liability, including any auto, hired autos and non-owned autos 	Combined Single Limit	\$1 Million
<ul style="list-style-type: none"> Workers Compensation and Employer Liability 	As required by Iowa law	
<ul style="list-style-type: none"> Property Damage 	Each Occurrence	\$1 Million
	Aggregate	\$1 Million

The Contractor shall arrange with its insurer for notice of cancellation of the required insurance coverage to be directed to the State in addition to any notices of cancellation, which may be directed to the Contractor. The Contractor's insurer shall state in the certificate of insurance that no cancellation of the insurance is effective without thirty (30) days prior written notice to the State. All insurance coverage required by this Agreement shall provide coverage for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy.

B. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

1. All employees on the job site and all other persons who may be affected thereby;
2. The public, including the State's staff and employees;
3. All the property and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Vendor or any of its subcontractors.
4. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and other improvements.

8.0 Receivership

The Contractor shall immediately, and not later than two (2) business days after any such filing, notify the State, in writing, if: (a) the Contractor files a voluntary petition in bankruptcy, a voluntary petition to reorganize its business, or a voluntary petition to effect a plan or other arrangements with creditors; (b) the Contractor files and answer admitting the jurisdiction of the court and the material allegations of an involuntary petition filed pursuant to the United States bankruptcy code, as amended; (c) the Contractor is adjudicated bankrupt, makes an assignment for the benefit of creditors, applies for or consents to the appointment of a receiver or trustee for all or any part of its property; (d) the Contractor institutes dissolution or liquidation proceedings with respect to its business; (e) an order is entered approving an involuntary petition to reorganize the business of the Contractor or to effect a plan or other arrangement with creditors or appointing a receiver or trustee for the Contractor of all or part of its property; or (f) if a writ or warrant of attachment, execution, distant, levy, possession, or any similar process which may materially affect the operation of the Contractor, is issued by any court against all or any material part of the Contractor's property.

In the event that said petition, writ or warrant is not dismissed or a stay of foreclosure obtained or said appointment, assignment, or proceedings are not rescinded or terminated within one hundred twenty (120) days of the issuance, making, or commencement thereof, and the effect thereof is to materially impede or frustrate the ability of the Contractor to fulfill its obligations under this Agreement, then the State may terminate this Agreement without penalty, unless: (a) within one hundred twenty (120) days after the election or appointment, any receiver or trustee of the Contractor, or the Contractor as a debtor-in-possession in connection with any reorganization or similar proceedings, shall have remedied any uncured failure to comply with any provision of this Agreement; and, (b) within said one hundred twenty

(120) days, the receiver or trustee, or the Contractor as a debtor-in-possession, shall have executed a contract with the State, which shall have been approved by the court having jurisdiction, whereby the receiver or trustee, or the Contractor in its capacity as a debtor-in-possession, assumes all obligations and agrees to be bound fully by each and every provision of this Agreement.

9.0 Obligations Beyond Agreement Term

All obligations of the State and the Contractor incurred or existing under this Agreement as of the date of expiration, termination or cancellation will survive the expiration, termination or cancellation of this Agreement.

10.0 Authorization

Each party to this Agreement represents and warrants to the other that:

- A. It has the right; power and authority to enter into perform its obligations under this Agreement.
- B. It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Agreement and this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

11.0 Sovereign Immunity

The State specifically reserves the defense of sovereign immunity as allowed by State or federal law or regulations for any claim arising out of or related to the duties and obligations imposed by this Agreement.

12.0 Intellectual Property

A. Works Made for Hire.

Work produced for the STATE shall be considered work made for hire and shall be owned solely by the STATE. If the works are not works for hire, then Contractor will be required to make an exclusive, perpetual, royalty-free assignment of all copyrights in such materials to the State and assurances from the Contractor that Contractor has the legal right to do so.

B. Warranty Regarding Intellectual Property Rights

Contractor will warrant that, in the performance of this Agreement, Contractor's work product and the information, data, designs, processes, inventions, techniques, devices, and other such intellectual property furnished, used, or relied upon by Contractor will not infringe any copyright, patent, trademark, trade dress or other intellectual property right of Contractor or others.

C. Right to Use Intellectual Property.

To the extent Contractor has the right to do so, the furnishing or using of any intellectual property by Contractor in completing this Agreement shall confer upon the STATE the unrestricted, irrevocable right under Contractor's intellectual property rights, to make, have made, use, sell, license, publish, and/or lease any such intellectual property without payment of additional consideration by STATE, as long as such property is not used outside the State and such use inures solely to the benefit of the State.

13.0 Security of Data

Some State of Iowa data files and documents are of a highly confidential nature; therefore, Contractor's employees may be allowed access to this information only as needed for their duties relating to performance of the requirements of this Agreement. The Contractor shall have positive policies and procedures for safeguarding the confidentiality of such data, and may be liable under privacy legislation for negligent release of such information. The Contractor shall be aware that access to data and application code will be provided only to the extent permitted by State and Federal statutes and regulations. Contractor is required to sign all appropriate confidentiality forms and to protect data to the same extent it would protect its own proprietary rights.

14.0 Compliance with the Law

This Agreement shall contain a provision regarding equal employment opportunity and nondiscrimination. Contractor shall agree not to engage in any discriminatory practices based upon race, color, creed, religion, national origin, sex, mental or physical capabilities, and it will comply with all provisions of federal, state, and local regulations against discrimination.

15.0 Not a Joint Venture

This Agreement shall not be construed as creating or constituting the relationship of a Partnership, joint venture, or other association of any kind between the State and the Contractor.

16.0 Record Retention and Access

This Agreement shall contain a provision requiring the Contractor to maintain books, records, and documents which specifically and properly document and calculate all charges billed to the State during the term of the Agreement and for at least three (3) years following the date of final payment of completion of any audit.

17.0 Governing Law and Forum

The laws of the State of Iowa will govern this Agreement. The forum for resolving disputes will be the Iowa District Court in Polk County.

18.0 Miscellaneous

- A. The terms and provisions of this Agreement shall be construed in accordance with the laws of the State. Any and all litigation or actions commenced in connection with this Agreement shall be brought in Des Moines, Iowa, in Polk County District Court for the State. If however, jurisdiction is not proper in the Polk County District Court, the action shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, provided that jurisdiction is proper in that forum. This provision shall not be construed as waiving any immunity to suit or liability which may be available to the State.
- B. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall be valid and enforceable.
- C. Failure of the State at any time to require strict performance of any provision of this Agreement shall not constitute a waiver of that provision no in any way limit enforcement of the provision.
- D. The parties agree to execute any additional documents necessary to effectuate this Agreement.

For Expense Reduction Corporation:

For the State of Iowa, Department of General Services and its successor agency:

Mark Hays, Pres

Kenneth Paulsen

Signature

Signature

Date: May 22, 2003

Date: May 22, 2003

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR



Wednesday, May 14, 2003

To: All Bidders via Email.

RE: RFP #BD80300S246 for Cost Management Services -A One Year General Contract

NOTICE OF INTENT TO AWARD

The Iowa Department of General Services, in association with the Information Technology Department, announces its intent to award the aforementioned contract to Expense Reduction Corporation (ERC), PO Box 521, Winterset, IA 50273.

- ERC is, without exception, in agreement with our Administrative Issues and Contractual Terms and Conditions.
- ERC requires no direct cash funding.
- ERC's fee is 100% contingency.
- ERC's fee is based on a 30% contingency of the first year savings and the fee is subject to the Customer's final calculation and approval.
- ERC has a proven track record of achieving results.

As provided for in the RFP, this Notice of Intent to Award is subject execution of a written contract and, as a result, this Notice does NOT constitute the formation of a contract between the State and the successful vendor. The State further reserves the right to cancel the award at any time prior to the execution of a written contract.

This notice begins the five- (5) day appeal period per Section 401 Iowa Administrative Code.

Thank you for participating in the bid process.

Regards,

Ashley Super, PA III
Ph: 515-281-7073
Email: ashley.super@dgs.state.ia.us

CROSSING THE DIGITAL DIVIDE - To find a free computer center near you call toll free 866-583-1234 and connect to the Internet for free.

Patrick J. Deluhery, Interim Director • Hoover State Office Bldg, Level A • Des Moines, IA 50319 • Phone (515) 242-5120 • Fax (515) 242-5974

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